

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CLARENCE BRUCE JOHNSON,  
  
Plaintiff,  
  
v.  
  
CAROLYN W COLVIN, Acting  
Commissioner of the Social Security  
Administration,  
  
Defendant.

CASE NO. 13-cv-05742 JRC  
  
ORDER GRANTING MOTION FOR  
ATTORNEY'S FEES PURSUANT  
TO 42 U.S.C. § 406(b)

This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and Local Magistrate Judge Rule MJR 13 (*see also* Notice of Initial Assignment to a U.S. Magistrate Judge and Consent Form, Dkt. 5; Consent to Proceed Before a United States Magistrate Judge, Dkt. 6). This matter is before the Court on plaintiff's Motion for Attorney's Fees Pursuant to 42 U.S.C. § 406(b) (*see* Dkt. 23). Defendant has no objection to plaintiff's request (*see* Dkt. 24).

The Court may allow a reasonable fee for an attorney who represented a Social Security Title II claimant before the Court and obtained a favorable judgment, as long as such fee is not in excess of 25 percent of the total of past-due benefits. *See* 42 U.S.C. § 406(b)(1); *Grisbrecht v. Barnhart*, 535 U.S. 789 (2002). When a contingency agreement applies, the Court will look first to such agreement and will conduct an independent review to assure the reasonableness of the

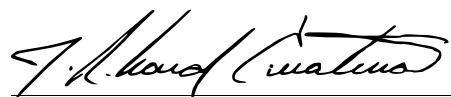
1 fee requested, taking into consideration the character of the representation and results achieved.  
2 *See Grisbrecht, supra*, 535 U.S. at 807, 808 (footnote omitted) (citations omitted). Although the  
3 fee agreement is the primary means for determining the fee, the Court will adjust the fee  
4 downward if substandard representation was provided, if the attorney caused excessive delay, or  
5 if a windfall would result from the requested fee. *See Crawford v. Astrue*, 586 F.3d 1142, 1151  
6 (9th Cir. 2009) (*citing Grisbrecht, supra*, 535 U.S. at 808).

7 Here, the representation was standard, at least, and the results achieved excellent (*see*  
8 Dkt. 23, Attachments 4, 5). *See Grisbrecht, supra*, 535 U.S. at 808. Following a remand from  
9 this Court (*see* Dkt. 18), a hearing was held and the Administration Law Judge issued a partially  
10 favorable decision awarding benefits to plaintiff (*see* Dkt. 23, Attachment 5). There has not been  
11 excessive delay and no windfall will result from the requested fee.

12 Plaintiff's total back payment was \$39,344.90 (*see id.*, Attachment 4). Plaintiff has  
13 moved for an attorney's fee of \$3,836.22 (*see* Motion, Dkt. 23, p. 1), and the Court has  
14 considered plaintiff's EAJA award previously received by plaintiff's attorney in the amount of  
15 \$5,538 (*see id.* p. 2; *see also* Dkt. 23, Attachment 6). *See Parish v. Comm'r. Soc. Sec. Admin.*,  
16 698 F.3d 1215, 1221 (9th Cir. 2012).

17 Based on plaintiff's motion and supporting documents (*see* Dkt. 23, Attachments 1, 2, 3,  
18 4, 5, 6), and with no objection from defendant (Dkt. 24), it is hereby ORDERED that attorney's  
19 fees in the amount of \$3,836.22 be awarded to plaintiff's attorney pursuant to 42 U.S.C. §  
20 406(b).

21 Dated this 10th day of March, 2016.

22  
23 

24 J. Richard Creatura  
United States Magistrate Judge